

86th Legislative Session – 2011

Committee: House Judiciary

Wednesday, February 02, 2011

P - Present
E - Excused
A - Absent

Roll Call

P Abdallah
P Boomgarden
P Feinstein
P Gibson
P Hansen (Jon)
P Killer
P Kopp
P Nelson (Stace)
P Russell
P Tornow
P Turbiville
P Gosch, Vice-Chair
P Hunt, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chair Hunt.

MOTION: TO APPROVE THE MINUTES OF JANUARY 31, 2011

Moved by: Turbiville
Second by: Gosch
Action: Prevailed by voice vote.

HB 1062: adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Presented by: Representative David Lust
Proponents: Representative Marc Feinstein
Tom Simmons, Rapid City, self

Sam Wilson, AARP, Sioux Falls

MOTION: AMEND HB 1062

1062ra

On page 1, line 11, of the printed bill, after "29A-5" insert ", but excludes one who is merely a guardian ad litem".

On page 1, line 12, after "guardian" insert ", limited guardian, or temporary guardian".

On page 2, delete line 1.

On page 2, line 2, delete "(7)" and insert "(6)".

On page 2, line 4, delete "(8)" and insert "(7)".

On page 2, line 4, delete "incapacitated person or" and insert ",".

On page 2, delete line 8, and insert "(8) "Protected person" means an adult for whom a guardian or conservator has been appointed.".

On page 2, line 9, delete "(10)" and insert "(9)".

On page 2, line 11, delete "(11)" and insert "(10)".

On page 2, between lines 12 and 13, insert:

"

(11) "Provisional order" means a temporary, preliminary, or tentative order which must be finalized by a subsequent order."

On page 2, line 15, after "adult" insert "alleged to need protection".

On page 3, line 19, delete "incapacitated or".

On page 6, line 16, delete "guardian" and insert "temporary guardian pursuant to § 29A-5-315".

On page 6, line 17, after "state" insert "unless extended by the court for up to an additional ninety days for good cause shown".

On page 6, line 20, delete "an incapacitated or" and insert "the".

On page 10, line 6, delete "incapacitated".

On page 10, line 7, before "protected" delete "or".

On page 10, line 12, delete "incapacitated" and insert "protected".

On page 10, line 16, delete "incapacitated" and insert "protected".

On page 10, line 17, delete "incapacitated" and insert "protected".

On page 11, line 21, delete "incapacitated".

On page 11, line 22, before "protected" delete "or".

On page 12, line 3, delete "incapacitated or".

On page 12, line 13, delete "incapacitated or".

Moved by: Feinstein
Second by: Killer
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1062 AS AMENDED

Moved by: Feinstein
Second by: Killer
Action: Prevailed by roll call vote. (12-0-1-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Hansen (Jon), Killer, Kopp, Nelson (Stace),
Russell, Tornow, Turbiville, Gosch, Hunt

Excused: Gibson

HB 1151: provide procedures by which adopted persons may obtain their original
birth certificates.

Presented by: Representative Jim Bolin
Proponents: DiAnn Kleinsasser, Pierre, self
Opponents: Rita Houghlum, Eagle Forum

MOTION: AMEND HB 1151

1151ra

On page 1, line 14, of the printed bill, delete ", any descendent of" and insert "or incapacitated, any person within the third degree of kinship with".

Moved by: Tornow
Second by: Russell
Action: Prevailed by voice vote.

MOTION: DEFER HB 1151 TO THE 41ST LEGISLATIVE DAY

Moved by: Gosch
Second by: Hansen (Jon)
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION DO PASS HB 1151 AS AMENDED

Moved by: Tornow
Second by: Nelson (Stace)
Action: Failed by roll call vote. (5-7-1-0)

Voting Yes: Feinstein, Killer, Nelson (Stace), Tornow, Hunt

Voting No: Abdallah, Boomgarden, Hansen (Jon), Kopp, Russell, Turbiville, Gosch

Excused: Gibson

MOTION: DEFER HB 1151 TO THE 41ST LEGISLATIVE DAY

Moved by: Gosch
Second by: Hansen (Jon)
Action: Prevailed by roll call vote. (8-4-1-0)

Voting Yes: Abdallah, Boomgarden, Hansen (Jon), Kopp, Russell, Turbiville, Gosch, Hunt

Voting No: Feinstein, Killer, Nelson (Stace), Tornow

Excused: Gibson

HB 1154: require persons convicted of crimes involving domestic abuse to support domestic abuse shelters.

Presented by: Representative David Lust

Proponents: Dianna Miller, SD Network Against Family Violence & Sexual Assault
Lynn Valenti, Dept. Of Social Services

MOTION: AMEND HB 1154

1154ja

On page 1, line 6, of the printed bill, delete "abuse" and insert "violence".

On page 1, line 8, delete "abuse" and insert "violence".

Moved by: Abdallah

Second by: Hansen (Jon)

Action: Prevailed by voice vote.

MOTION: DO PASS HB 1154 AS AMENDED

Moved by: Abdallah

Second by: Gibson

Action: Prevailed by roll call vote. (9-4-0-0)

Voting Yes: Abdallah, Feinstein, Gibson, Hansen (Jon), Killer, Kopp, Russell, Turbiville, Hunt

Voting No: Boomgarden, Nelson (Stace), Tornow, Gosch

MOTION: AMEND TITLE OF HB 1154

1154jta

On page 1 of the printed bill, delete line 2, and insert "violence to support domestic violence programs.".

Moved by: Turbiville

Second by: Gibson

Action: Prevailed by voice vote.

HB 1156: define intentional strangulation as aggravated assault and provide a penalty therefor.

Presented by: Representative David Lust

Proponents: Dianna Miller, SD Network Against Family Violence & Sexual Assault
Tracy Decker, Rapid City, self

Opponents: Traci Smith, Sioux Falls, self (via telephone)

MOTION: AMEND HB 1156

1156ja

On the printed bill, delete everything after the enacting clause and insert:

"

Section 1. That chapter 22-18 be amended by adding thereto a NEW SECTION to read as follows:

Any person who commits an aggravated assault by intentionally engaging in the strangulation of another shall have the offense enhanced to the next, more severe class. For the purpose of this section, strangulation means the application of pressure to another person's throat or neck, or the blocking of the person's nose or mouth, that creates a risk of death or substantial bodily harm."

Moved by: Nelson (Stace)

Second by: Hansen (Jon)

Action: Prevailed by voice vote.

MOTION: DEFER HB 1156 TO THE 41ST LEGISLATIVE DAY

Moved by: Tornow

Second by: Gosch

Action: Prevailed by roll call vote. (11-2-0-0)

Voting Yes: Boomgarden, Feinstein, Gibson, Hansen (Jon), Killer, Kopp, Russell, Tornow, Turbiville, Gosch, Hunt

Voting No: Abdallah, Nelson (Stace)

HB 1161: prohibit the use of certain photo radar speed detection systems and of certain photo monitoring devices to detect red light violations.

THE CHAIR DEFERRED HB 1161 UNTIL MONDAY, FEBRUARY 7, 2011

HB 1195: restrict, under certain circumstances, the creation and transfer of conservation easements.

Due to time constraints, the committee was not able to hear HB 1195. However, the Chair did ask if anyone from out of town wished to testify today. Mr. Faulstich did so, as he will not be able to return on the day the bill will be heard.

Opponents: Jim Faulstich, Highmore, self

MOTION: ADJOURN

Moved by: Turbiville

Second by: Gosch

Action: Prevailed by voice vote.

Cindy Tryon
Committee Secretary

Roger W. Hunt, Chair